



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

**Department of
Environmental
Conservation
DIVISION OF WATER**

**Wastewater Discharge Authorization
Program**

April 6, 2022

IPOP, LLC
Attn: Beau Epstein
9811 W. Charleston Blvd, #2-444
Las Vegas, NV 89117

555 Cordova Street
Anchorage, Alaska 99501-2617
Main: 907.269.6285
Fax: 907.334.2415
www.dec.alaska.gov/water/wwdp

Re: IPOP LLC, Bonanza Channel Placer Project (including Bonanza Channel Case Study (BCCS))
POA-2018-00123, Bonanza Channel/Safety Sound

Dear Mr. Epstein:

In accordance with Section 401 of the Federal Clean Water Act of 1977 and provisions of the Alaska Water Quality Standards, the Department of Environmental Conservation (DEC) is issuing the enclosed water quality certification that the proposed activity if authorized by a U.S. Army Corps of Engineers permit (POA2018-00123) will comply with water quality requirements for the placement of dredged and/or fill material in waters of the U.S., including wetlands and streams, with conditions necessary to ensure compliance with Water Quality Standards or other appropriate water quality requirements of State Law.

DEC regulations provide that any person who disagrees with this decision may request an informal review by the Division Director in accordance with 18 AAC 15.185 or an adjudicatory hearing in accordance with 18 AAC 15.195 – 18 AAC 15.340. An informal review request must be delivered to the Director, Division of Water, 555 Cordova Street, Anchorage, AK 99501, within 20 days of the permit decision. Visit <http://dec.alaska.gov/commish/review-guidance/> for information on Administrative Appeals of Department decisions.

An adjudicatory hearing request must be delivered to the Commissioner of the Department of Environmental Conservation, PO Box 111800, Juneau, AK 99811-1800; Location: 410 Willoughby Avenue, Suite 303, Juneau within 30 days of the permit decision. If a hearing is not requested within 30 days, the right to appeal is waived.

By copy of this letter we are advising the U.S. Army Corps of Engineers of our actions and enclosing a copy of the certification for their use.

Sincerely,

A handwritten signature in cursive script that reads "James Rypkema".

James Rypkema
Program Manager, Storm Water and Wetlands

Enclosure: 401 Water Quality Certificate

cc: (with encl.)
Tiffany Kwakwa, USACE, Anchorage
William Burnett, Yukuskokon Prof. Services

Audra Brase, ADF&G
USFWS Field Office Fairbanks
Matt LaCroix EPA AK Operations

Betsy McCracken, EPA
Barb Lake, NOAA - Federal
Stefanie Coxe, NOAA - Federal
Seanbob Kelly, NOAA - Federal
Jodi Pirtle, NOAA - Federal
Sean McDermott, NOAA - Federal
Gretchen Harrington, NOAA - Federal
Joshua Markwell, NOAA - Federal
Dominique Jenkins, USACE
Robert Henszey, USFWS
Amal Ajmi, USFWS

Carole A. Caldwell, Murphy & Buchal, LLP
James Buchal, Murphy & Buchal, LLP
Stephen Grabacki, FISHEYE Consulting
Wes Jones, Norton Sound Economic
Development Corporation
Myra Scholze,
Kyle Moselle, DNR
Allan Nakanishi, DEC
Gene McCabe, DEC
Randy Bates, DEC
Gary Mendivil, DEC

STATE OF ALASKA
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Water Quality Certification

In accordance with Section 401 of the Federal Clean Water Act (CWA) and the Alaska Water Quality Standards (18 AAC 70), a water quality certification is issued to IPOP, LLC; Attn: Beau Epstein; 9811 W. Charleston Blvd, #2-444; Las Vegas, NV 89117 that the proposed activity if authorized by a U.S. Army Corps of Engineers (USACE) permit (POA2018-00123) will comply with water quality requirements for the placement of dredged and/or fill material in waters of the U.S. including wetlands and streams in association with the development of Bonanza Channel Placer Project (including Bonanza Channel Case Study (BCCS)).

A state issued water quality certification is required under Section 401 because the proposed activity will be authorized by a USACE permit (POA2018-00123) and a discharge of pollutants to waters of the U.S. located in the State of Alaska may result from the proposed activity. Public notice of the application for this certification was given as required by 18 AAC 15.180 in the DEC Public Notice POA-2018-00123 posted from July 20, 2021 to August 20, 2021. Comments to both DEC and USACE were received in support and non-support of the project with concerns regarding submerged aquatic vegetation, restoration, and resulting impacts.

Project Description and Location

The applicant's stated purpose is to extract gold from mining claims leased by IPOP and included within the scope of the project application. The project proponent plans to discharge approximately 4,827,161 cubic yards of dredged material into approximately 195 acres of waters of the United States over a period of six years to gather scientific information and mine for gold by constructing and maintaining an access channel, dredge disposal areas, and mining channel, and constructing a man camp in approximately 1.2 acres of uplands.

The proposed activity is located within approximately 25 miles east of Nome, Alaska in Bonanza Channel and at approximately Mile Post 28.5 along the Nome-Council Road, between Latitude 64.5044° N., Longitude 164.6169° W., on the western limit and Latitude 64.52866° N., Longitude 164.5447° W. on the eastern limit; within the following sections, townships, and ranges: Sections 24, 25, and 26, T. 11 S., R. 30 W., Kateel Meridian; Sections 18 and 19, T. 11 S., R. 29 W., Kateel Meridian; USGS Quad Map Solomon C-6.

Antidegradation Analysis Finding

National Marine Fisheries Service (NMFS) completed the essential fish habitat (EFH) assessment regarding the proposed project with a recommendation to the USACE to deny the CWA §404 permit based on potentially substantial adverse effects to EFH, aquatic resources of national interest, and special aquatic sites, and lack of proven mitigation and reclamation measures¹. NMFS also provided recommended mitigation actions which should be implemented in the event USACE decides to approve the permit. The USACE as the federal agency is responsible for responding to the recommendations under 50 CFR 600.920(k)(1) regarding EFH consultation under the Magnuson-Stevens Fishery Conservation and Management Act.

Pursuant to a USACE evaluation and findings of no significant degradation under 33 U.S.C. 1344 and under 40 CFR 230, DEC would find that the project would comply with the requirements for Tier 1 and Tier 2 regarding water quality impacts to receiving water immediately surrounding the dredge or fill material pursuant to the Department's Antidegradation Policy and Implementation Methods at 18 AAC 70.015 and 18 AAC 70.016.

¹ NMFS, *Bonanza Channel/ Safety Sound Essential Fish Habitat Assessment*, POA-2018-00123, dated March 4, 2022.

Conditions Necessary to Ensure Compliance with Water Quality Standards or Other Appropriate Water Quality Requirements of State Law

The Department of Environmental Conservation (DEC) reviewed the application and certifies that there is reasonable assurance that the proposed activity if approved by the USACE, as well as any discharge which may result, will comply with applicable provisions of Section 401 of the CWA and the Alaska Water Quality Standards, 18 AAC 70, provided that the following additional measures are adhered to.

Pursuant to 18 AAC 70.020(a) and the Toxics and Other Deleterious Organic and Inorganic Substances in 18 AAC 70.020(b), the following conditions are designed to reduce pollutants from the activity to ensure compliance with the applicable water quality standards.

Pollutants/Toxics

1. Fuel storage and handling activities for equipment must be sited and conducted so there is no petroleum contamination of the ground, subsurface, or surface waterbodies.
2. During construction, spill response equipment and supplies such as sorbent pads shall be available and used immediately to contain and cleanup oil, fuel, hydraulic fluid, antifreeze, or other pollutant spills. Any spill amount must be reported in accordance with Discharge Notification and Reporting Requirements (AS 46.03.755 and 18 AAC 75 Article 3). The applicant must contact by telephone the DEC Area Response Team for Northern Alaska at 907-451-2121 during work hours or 1-800-478-9300 after hours. Also, the applicant must contact by telephone the National Response Center at 1-800-424-8802.
3. Equipment shall not be operated below the ordinary high-water mark if equipment is leaking fuel, oil, hydraulic fluid, or any other hazardous material. Equipment shall be inspected and recorded in a log daily for leaks. If leaks are found, the equipment shall not be used and pulled from service until the leak is repaired.
4. Fill material (including dredge material) must be clean soil, sand, gravel or rock, free from petroleum products and toxic contaminants in toxic amounts.

Turbidity, Erosion and Sediment Control

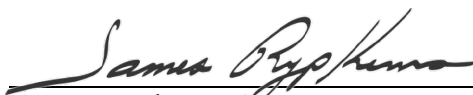
5. CWA §402 permit requirement – For discharges of wastewater from suction dredging and related activities, the permittee must obtain an Alaska Pollutant Discharge Elimination System (APDES) individual permit for point-source discharge(s) into waters of the U.S. For further information, contact the DEC Engineering and Mining Technical Services (Allan Nakanishi, 907-269-4028, Allan.Nakanishi@alaska.gov, or <https://dec.alaska.gov/water/wastewater/mining/>).
6. CWA §402 permit requirement – Runoff discharged to surface water (including wetlands) from a construction site (i.e., man-camp) disturbing one or more acres must be covered under Alaska's General Permit for Storm Water Discharges from Large and Small Construction Activities in Alaska (CGP, AKR100000, 18 AAC 83). The CGP requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP). For projects that disturb more than five acres, this SWPPP must also be submitted to DEC prior to construction along with the Notice of Intent (NOI). For more information see DEC's website for the CGP at <http://dec.alaska.gov/water/wastewater/stormwater/construction>, or call 907--269--6285.
7. The permittee must stabilize any dredged material (temporarily or permanently) stored on upland property to prevent erosion and subsequent sedimentation into jurisdictional waters of the United States. The material must be contained with siltation control measures to preclude reentry into any waters of the U.S., including wetlands.

8. Include the following BMPs to handle storm water and total storm water volume discharges as they apply to the site, including but not limited to:
 - a. Divert storm water from off-site around the site so that it does not flow onto the project site and cause erosion of exposed soils;
 - b. Slow down or contain storm water that may collect and concentrate within a site and cause erosion of exposed soils;
 - c. Place velocity dissipation devices (e.g., check dams, sediment traps, or riprap) along the length of any conveyance channel to provide a non-erosive flow velocity. Also place velocity dissipation devices where discharges from the conveyance channel or structure join a water course to prevent erosion and to protect the channel embankment, outlet, adjacent stream bank slopes, and downstream waters.

General

9. The permittee must provide DEC Division of Water (DEC-401cert@alaska.gov) a copy of the annual comprehensive monitoring report as reported to USACE as referenced in the Reclamation Plan.
10. DEC coordinates with several regulatory programs to review the impacts of mining operations. A Section 401 Certification does not release the applicant from obtaining all necessary federal, state, and local permits, nor does it limit more restrictive requirements set through any such program. It does not eliminate, waive, or vary the applicant's obligation to comply with all state water statutes and rules through construction, installation, and operation of the project or mitigation, including, but not limited to the APDES permitting program 18 AAC 83 and 18 AAC 72.
11. USACE has stated that projects shall be reviewed under the federal rules in place at the time the application is received. This project and its mitigation were reviewed under the federal and state statutes and laws in place at the time the application was received. If the USACE determines any part or condition of this Certification is not lawful or is waived and unenforceable, the determination shall apply only to the part or condition so determined. The determination shall not apply to nor invalidate any remaining parts or conditions of this Certification. If the USACE makes such a determination, the applicant remains responsible for meeting state water quality statutes and rules, and if a violation occurs, may be subject to state enforcement (18 AAC 70.010).
12. This Certification does not release the applicant from any liability, penalty, or duty imposed by Alaska or federal statutes, regulations, rules or local ordinances, and it does not convey a property right or an exclusive privilege.
13. If your project is not completed by the time limit specified under USACE Permit and will continue, or for a modification of the USACE permit, you must submit an application for renewal of this certification at least 60 days before the expiration date or any deadline established by USACE for certification action on the modification, or 60 days before the proposed effective date of the modification, whichever is sooner. (18 AAC 15.120(b), 18 AAC 15.130, 18 AAC 15.180).

Date: 4/6/2022


James Rypkema, Program Manager
Storm Water and Wetlands